2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Transparency, verification and irreversibility: essential principles in the process of nuclear disarmament

Working paper by the Republic of Cuba

1. The Treaty on the Non-Proliferation of Nuclear Weapons is based on three fundamental pillars: non-proliferation, disarmament, and cooperation for the peaceful use of nuclear energy. All States parties must comply with all their obligations in accordance with each and every one of the articles of the Treaty.

2. Unfortunately, while more and more is demanded of the non-nuclear-weapon States in the field of verification and transparency to ensure non-proliferation, there has been little or no progress by the nuclear Powers towards achieving the goal of nuclear disarmament, which should be governed by those same principles and also by that of irreversibility.

3. Although there are two international legal regimes prohibiting the development and use of the other types of weapons of mass destruction, chemical and biological, unfortunately the same has not taken place in the area of nuclear weapons. The obstructionist attitude of the biggest nuclear power has prevented negotiations from being undertaken at the Disarmament Conference on the subject of a multilateral convention on nuclear disarmament.

4. In the area of chemical weapons, particularly, humanity greatly appreciates the fact that multilateral negotiations have led to a convention based on an integrated and balanced approach, guaranteeing the complete elimination of chemical weapons through a transparent, verifiable and irreversible process.

5. Why should we not achieve something similar in the nuclear field? Is it so difficult to understand that only a comprehensive approach including the components of disarmament and irreversibility, non-proliferation, assistance and cooperation, transparency and mutual trust, verification and security can ensure that we achieve the complete elimination of nuclear weapons, so that they will no longer threaten the devastation and destruction of our planet and of humanity?

6. The non-nuclear-weapon States parties to the Treaty, in a noble gesture for world peace and security, have voluntarily renounced possession of nuclear weapons and, in the context of that Treaty, have accepted the obligation of monitoring of their

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activities in the nuclear field. Nonetheless, the commitments and obligations of the States parties to the Treaty have been neither reciprocal nor equivalent. The true scale of the nuclear arsenal possessed by the nuclear Powers recognized in the Treaty is unknown. There are no mechanisms for verification of compliance with the agreements, conventions and official pronouncements on nuclear arms reduction adopted bilaterally or unilaterally. Still less are there any multilateral verification mechanisms relating to the elimination or dismantling of such weapons. Progress in compliance with article VI of the Treaty, in respect of which the nuclear Powers have an essential responsibility, has therefore been minimal or non-existent. This serves only to perpetuate the selective and discriminatory character of the Treaty.

7. The privilege of possessing nuclear weapons must not be eternal. The nuclear-weapon States have an obligation, pursuant to the provisions of the Treaty and jointly with the other States parties, to hold negotiations for nuclear disarmament. A fundamental aspect of those negotiations is that they must take into account the essential principles of verification, transparency and irreversibility.

8. Article VI of the Treaty is clear concerning the achievement of nuclear disarmament, specifying that "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control". The International Court of Justice has also pronounced on this obligation, in its unanimous opinion of 8 July 1996.

9. The aforementioned principles of verification, transparency and irreversibility should be incorporated in the framework of any agreement or action to reduce or eliminate any category of nuclear weapons, whether adopted at the multilateral, plurilateral or bilateral level or whether they are unilateral decisions. This includes actions or agreements relating to non-strategic nuclear weapons, as well as those concerning launching systems or the use of nuclear weapons of any kind.

Application of the principles of verification, transparency and irreversibility in the nuclear disarmament process

Verification

10. Only the implementation of the principle of verification in the nuclear disarmament process can guarantee the "strict and effective international control" referred to in article VI of the Treaty. An effective system of verification will ensure the necessary transparency and mutual trust among all States involved in the nuclear disarmament process, and prevent or minimize the dangers of diversion for terrorist uses of nuclear weapons, their delivery systems or related materials.

11. The application of the principle of verification, together with that of transparency, will prevent the conduct of nuclear tests of all types and, therefore, the development of new nuclear weapons, or modifications of existing weapons and of systems for their launching and use.

12. The International Atomic Energy Agency (IAEA) has an essential part to play in the application of the verification principle. Through the implementation of the safeguards system, the Agency's task is to ensure that nuclear energy can be used only for peaceful purposes by the non-nuclear-weapon States parties. Cuba fully

supports the Agency's role in verifying compliance with the worldwide safeguards regime provided for in the Treaty.

13. That regime, however, needs to be strengthened, since it is still limited to that aspect of non-proliferation known as "horizontal", and does not include areas such as the development of new nuclear weapons and related devices, excess fissile material in the possession of the nuclear Powers which is not destined for military uses, and the final use of such material. It should also include verification of measures to eliminate or reduce nuclear weapons which have been agreed upon in bilateral treaties and unilateral decisions. Of course, IAEA should also have an essential role in verifying compliance with any multilateral treaty designed to achieve the total elimination of nuclear weapons.

Transparency

14. Compliance with the principle of verification entails the necessity of simultaneous application of the principle of transparency, which is vital in any disarmament process, especially nuclear disarmament, which is particularly sensitive and a matter of universal concern.

15. Under the principle of transparency, all States parties to the Treaty must accept that an effective and rapid nuclear disarmament process entails mutual trust. This in turn means, inter alia, the availability of information and real knowledge of stocks of nuclear weapons from both quantitative and qualitative viewpoints; true and verifiable information on progress in the reduction and elimination of nuclear weapons within determined periods of time; and information on the application of the principle of irreversibility in the process of reduction and destruction of nuclear weapons. These are essential aspects of the nuclear disarmament process which are matters of interest and concern to all States parties to the Treaty.

16. It is logical that one of the 13 practical measures for the application of article VI, adopted during the 2000 Review Conference, should be a call for the submission of periodic reports to show how the States parties to the Treaty have fulfilled their obligations under that article. This would be a major step towards transparency in the nuclear disarmament process.

17. In this case, nuclear-weapon States parties have a paramount responsibility and a magnificent opportunity to report on what they have done in the area of nuclear disarmament and on whether the measures taken in that regard comply with the principles of verification, transparency and irreversibility. The information provided by the nuclear Powers should include precise data on the composition and size of their nuclear arsenals and on the concrete progress being made in their elimination, as well as other measures in the same direction. That would be a step forward which would be of real value and inspire confidence among the other States parties, and an effective measure towards transparency which would show the honesty and truthfulness with which obligations entered into under the Treaty are being complied with.

18. The principles of verification and transparency are vital in preventing the proliferation of nuclear weapons and, at the same time, in contributing to the full enjoyment of "the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without

discrimination and in conformity with articles I and II of this Treaty", as stated in article IV.

19. The imposition of unilateral restrictive measures as adopted by certain States parties, which are usually politically motivated and obstruct the peaceful use of nuclear energy by other States parties, constitutes a violation of the Treaty and must cease.

20. The existence of export control regimes based on selective and discriminatory criteria is unacceptable both legally and morally. In practice, it represents a serious obstacle for the enjoyment of the inalienable right of all States to use for peaceful purposes the various means and technologies existing in the nuclear field. The most effective export and import control model is one which is negotiated and applied without double standards in a multilateral framework, taking into account the interests of all States which are prepared to submit to a strict regime to verify their compliance with their obligations under the relevant international treaty.

Irreversibility

21. The principle of irreversibility is an essential component of any disarmament and arms control process, with very great importance in the nuclear disarmament process.

22. Among some nuclear-weapon States, there is a tendency to consider making certain types and quantities of nuclear weapons non-operational a positive step. That could be considered in a specific framework and time frame, but at the strategic level, it has a negative influence for the achievement of the objective of nuclear disarmament. In the long run, nuclear weapons to which measures of this type are applied can be redeployed at any time; this is worrying and unacceptable. Applying the principle of irreversibility is essential in order to ensure the effectiveness and durability of any multilateral, plurilateral or bilateral agreement or unilateral decision in the area of nuclear disarmament.

Some concrete proposals

23. Without claiming to put forward an exhaustive list, Cuba believes that the following are some concrete actions or steps to move forward in the application of the principles of verification, transparency and irreversibility in the process of nuclear disarmament:

(a) The United States of America and the Russian Federation should implement the Treaty on Strategic Offensive Reductions (the "Moscow Treaty"), adopted on 1 June 2003, and the principles of transparency, irreversibility and verification, particularly in relation to the nuclear arsenal reductions provided for in that agreement, both for nuclear warheads and for their launching mechanisms.

(b) The United States and the Russian Federation should resume the implementation of the second Strategic Arms Reduction Treaty (START II), and the principle of transparency should be included. Those nuclear Powers should conclude the negotiations for the START III treaty, which should take account of the principles of verification, transparency and irreversibility.

(c) The United States and the Russian Federation should work together in a broad process to control their non-strategic nuclear armaments, through the implementation and verification of the 1991 and 1992 initiatives, with concrete measures in the area of transparency.

(d) The nuclear-weapon States parties to the Treaty on the Non-Proliferation of Nuclear Weapons should bring their entire nuclear arsenals to a non-operational state, through a programme which would complete that stage as soon as possible, combining it with parallel and irreversible reductions in such weapons.

(e) The States parties to the Treaty should begin and conclude negotiations on a legally binding and non-discriminatory treaty, prohibiting the production of fissile material for nuclear weapons. That treaty should pursue the goals of nuclear non-proliferation and disarmament, taking account of the principles of verification, transparency and irreversibility. As a complementary measure, the States parties should work to develop a worldwide inventory of fissile material for nuclear weapons, both in nuclear warheads and in stockpiles, and outline a programme for its transformation, beginning with stocks declared as "excess", under a system of international verification functioning in the framework of IAEA.

(f) Promotion of the entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and, consequently, of the international monitoring system established by the Treaty, as an indispensable verification measure in that area. Until such time as that entry into force is achieved, all States should observe the moratorium on nuclear tests.

(g) All States parties to the Treaty on the Non-Proliferation of Nuclear Weapons must submit periodic reports reflecting their compliance with their commitments and obligations under the Treaty and other international agreements in the area of nuclear disarmament. In particular, nuclear-weapon States parties should declare such weapons and the concrete progress being made in their elimination.

(h) The nuclear-weapon States parties should reach a consensus and adopt a legally binding international instrument, committing them to refrain from using or threatening to use nuclear weapons against non-nuclear-weapon States. Furthermore, they should undertake to review, with a view to their modification or elimination, the reservations made when they ratified the additional protocols to certain treaties which establish nuclear-weapon-free zones, such as the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco). Some of those reservations are contrary to the statute of denuclearization established under that Treaty.

24. Naturally, the implementation of all the above actions, and others which may be considered appropriate, will require the necessary political will and commitment on the part of all States parties, especially the nuclear Powers, to fulfil the obligations entered into under the Treaty on the Non-Proliferation of Nuclear Weapons.

25. An essential first step would be for the nuclear-weapon States to review their military doctrines with a view to reducing such weapons and, in any case, eliminating the role played by them in their defence and security strategies. This is a strategic step towards achieving nuclear disarmament and ensuring that the principles of transparency, irreversibility and verification can be introduced

promptly into all actions and agreements designed for the total elimination of nuclear weapons.

26. Cuba reaffirms its position that only the application of a systemic concept including the components of disarmament, non-proliferation, verification, assistance and cooperation will be able to ensure the total elimination of nuclear weapons. Cuba is prepared to enter into immediate negotiations for a multilateral convention to implement that concept while strictly observing the principles of verification, transparency and irreversibility. Cuba also considers that the Disarmament Conference, as the sole multilateral forum for disarmament negotiations, is the appropriate framework for conducting them.

27. Cuba urges all States parties to the Treaty to commit themselves to the achievement of the goal of nuclear disarmament and to take action to that end, in response to the just demands formulated in recent decades by the international community.